

METROPOLITAN DEVELOPMENT COMMITTEE

DATE: January 11, 2011

CALLED TO ORDER: 5:34 p.m.

ADJOURNED: 6:38 p.m.

ATTENDANCE

Attending Members

Janice McHenry, Chair
Paul Bateman
Jeff Cardwell
Ginny Cain
Jose Evans
Brian Mahern
Dane Mahern
Angel Rivera

Absent Members

Jack Sandlin

AGENDA

PROPOSAL NO. 390, 2010 - reappoints Mark D. Fisher to the Board of Code Enforcement
"Do Pass" Vote: 8-0

PROPOSAL NO. 391, 2010 - reappoints Earl Daniel Pool to the Metropolitan Board of
Zoning Appeals, Division I
"Do Pass" Vote: 8-0

PROPOSAL NO. 392, 2010 - reappoints Mindy Westrick to the Metropolitan Board of
Zoning Appeals, Division III
"Do Pass" Vote: 8-0

PROPOSAL NO. 298, 2010 - amends the Code to unify franchise zone tow contracts and
abandoned vehicle tow contracts for efficient removal, storage and disposal of impounded
or abandoned vehicles under the authority of the department of code enforcement, and
further to provide authority for employees of the department of code enforcement to direct
the impoundment of vehicles declared a public nuisance
"No action taken"

METROPOLITAN DEVELOPMENT COMMITTEE

The Metropolitan Development Committee of the City-County Council met on Monday, January 11, 2011. Chairwoman Janice McHenry called the meeting to order at 5:34 p.m. with the following members present: Paul Bateman, Jeff Cardwell, Ginny Cain, Jose Evans, Brian Mahern, Dan Mahern and Angel Rivera. Jack Sandlin was absent.

Chair McHenry asked for consent to move Proposal No. 390, 2010, to the end of the agenda. Consent was given.

PROPOSAL NO. 391, 2010 - reappoints Earl Daniel Pool to the Metropolitan Board of Zoning Appeals, Division I

Chair McHenry stated that Mr. Pool was not able to be in attendance today due to health issues. She stated that he has made all of his meetings since his appointment.

Councillor Cain moved, seconded by Councillor Rivera, to send Proposal No. 391, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 8-0.

PROPOSAL NO. 392, 2010 - reappoints Mindy Westrick to the Metropolitan Board of Zoning Appeals, Division III

Mindy Westrick stated that she has served on the Board of Zoning Appeals, Division III since January 2009, and that she enjoys her time on the board and serving the public. She stated that she sees this as her way to give back to Indianapolis.

Councillor Bateman moved, seconded by Councillor Rivera, to send Proposal No. 392, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 8-0.

PROPOSAL NO. 298, 2010 - amends the Code to unify franchise zone tow contracts and abandoned vehicle tow contracts for efficient removal, storage and disposal of impounded or abandoned vehicles under the authority of the department of code enforcement, and further to provide authority for employees of the department of code enforcement to direct the impoundment of vehicles declared a public nuisance

Rick Powers, Department of Code Enforcement (DCE), Director stated that they have been before the committee and have given a full presentation. He stated that the bottom line of the proposal is that they are looking to create three baseline changes within the ordinance. One is defining an inspector and providing the latitude of an inspector to address nuisance or inoperable vehicles on private properties, giving them the ability to cite that vehicle and actually have it removed. Another is to create an area of time verses geography, to not be limited to zones, relative to limiting their response to a vendor within a specific zone. This would procure the best deal relative

to time and response time. He stated that beyond that is clean-up for things that go back to the creation of their department. He stated that in summary, the benefits are to have an overall more efficient towing process by considering the interest of the taxpayers.

Councillor Cain asked if DCE has had any communications with the Indianapolis Metropolitan Police Department (IMPD) on this proposal and if so what their thoughts are. Mr. Powers stated that staff has been working on this for close to eighteen months, with IMPD and several other city departments, such as the Department of Public Safety (DPS) and Department of Public Works (DPW). He stated that they are all on board with what is being proposed. He stated that there would be no impact or change whatsoever in enforcement powers relative to law enforcement, other than the latitude for an inspector to remove a vehicle.

Councillor Cardwell asked for an explanation of the current procedures to the geographical limitations to the different zones, verses how the new proposal would make it better. Mr. Powers stated that there are currently six franchise zones that they are required to use and/or establish bids within. Vendors will then respond and/or dispatch someone within the zone in which the incident occurs. Councillor Cardwell asked if those six zones are protected territories. Mr. Powers stated yes, to the sense that the contract exists within them and that they must use the vendor within that zone. They must also bid for the services within that specific zone.

Councillor Cardwell asked if there is a problem in Zone A, and all their wrecker services are busy, if someone in Zone C can be called to tow the cars. Mr. Powers stated that provisions of law require you to contact that vendor within that service area.

Kristen Tusing, Office of the Mayor, Director Enterprise Development, clarified that you must contact whoever holds the contract in that zone, you cannot call the other contractors.

Councilor Cardwell asked what change would occur if the proposal were to pass. Mr. Powers stated that it basically removes any geographical limitations to their call or dispatch services. They would establish that a vendor would provide a response to an incident, regardless of where that incident occurs within a certain amount of time. He stated that they believe this would drive the number of lots, vendors and vehicles that would be required to provide the services to the people, without the limitation or bidding by zone or geographical location as a limiting factor.

Councilor Bateman asked how this proposal would affect the towing population as a whole. He stated that he has received several emails and phone calls stating that it would harm the small businesses. Ms Tusing stated that they are not procuring a towing service, they are simply proposing that they would procure a towing manager. Because of the way they wrote the request for proposal (RFP), they created an environment where an overall company or manager would partner with vendors to be

able to respond to the towing. She stated that they cannot say it will not affect the current vendors, because it will. She stated that whoever wins the RFP will decide what vendors to use. She stated that they do not feel that it will affect and eliminate small businesses, because the proposals that they received back from the bid all included partnerships with small businesses, to provide those services and to be able to cover the entire county in the response time being asked. She stated that they feel that they have written the proposal to yield small business involvement, and that is what they received in the proposals.

Councillor Bateman asked if they were encouraging partnerships with small businesses. Mr. Tusing stated that they are encouraging partnerships, but there is no mandatory small business involvement. She stated that they will continue to work with the committee to see if they can come to an agreement that would give some assurance of small business involvement.

Councillor B. Mahern stated that he has grave concerns about the process that was used, in talking about a fundamental change as to how towing services will be awarded in the city. He stated that it is his understanding that the current ordinance states that those services are procured according to bid. He feels that there was an RFP issued, which is not a bid, and that is troubling to him. He stated that there are many things about this ordinance that are laudable, but he is deeply troubled that the current ordinance describes exactly how you should go about acquiring towing services, and the city and respondents put a lot of effort into an RFP that is not even the process under the current ordinance.

Mr. Powers stated that this is why they are here. They sent the RFP to garner input from a professional community to determine if anyone could even answer what they thought the scope would be. Hence this debate, and now knowing the interest and that there are vendors that are capable of providing this through partnerships, they have learned a great deal through this RFP. He stated that their understanding from the community and vendors somewhat provided proof that what they are proposing is a viable option.

Ms. Tusing stated that the RFP process is not complete until negotiations, best and final offer and a contract are actually signed. She stated that they have clauses in the RFP to allow them to cancel it at any time and not to procure the service that they are asking.

Councillor B. Mahern stated that he does not understand why there could not have been a discussion prior to the RFP. He stated that he hopes that this is not an instance where the Council feels that they have a gun pointed at them and that they have to do this, when it is something that is not contemplated under the current ordinance. Ms. Tusing stated that the exercise was not to procure something, it was an information gathering to see if a vendor could provide this service. She stated that they gathered a lot of information that can be used going forward to manage towing.

Councillor Rivera asked why there was a bid before the ordinance. Mr. Powers stated that they were looking to garner input, he said they knew going into the budget that they had efficiencies they were looking for and they have been doing that since the administration came on board. He stated that they wanted to try to find added efficiencies; they knew that they had an auto desk in the building that they needed to address. The tool they used to determine whether or not there was a viable alternative to the current way of doing business was the release of the RFP and responses. He stated that through those responses they have learned that their decision to go forward and try to do this has been valid.

Ms. Tusing stated that the departments that knew there was a possible savings had no way to quantify what their savings could be, but that the proposals allowed them to do that. She stated that they received the proposal before the budget, which allowed them to get a ballpark figure.

Councillor Rivera asked if they had any expected savings on the ballpark figures, or any expected improvements in the performance or service level. Mr. Powers stated that the approximate savings is \$1.2 million annually and guaranteed revenue of at least \$1.5 million annually. With respect to the auto desk on the first floor, if fully realized, they would hope to relocate services that are not towing related.

Councillor Rivera asked if there were any other cities that had tried this. Mr. Powers stated that most cities of our size are doing similar, consolidating their towing operations.

Councillor Rivera asked if today's service requirements are lower than what this RFP demands.

Mr. Powers stated that he is sure they are, because they would not go after a lower efficiency model.

Councillor Rivera asked if DCE feels comfortable in their capacity to enforce these requirements. Mr. Powers stated yes. There are reporting provisions throughout the RFP and the response for the vendor to provide performance measures throughout the life of the contract. In fact, it would become a contract management role for them.

Joe Calderon, Bose McKinney & Evans Law Firm, stated that he represents Cook's Towing Service. He stated that Cook's Towing Service is a current vendor who tried to participate in the RFP process and feels that the process was an overwhelming task for them and the other small businesses that primarily make up the towing family businesses in town. He stated that they were unable to pull it together in a four-week time period. He stated that it is very troubling that they are trying to fix an ordinance in response to an RFP that was let out in July, which seems a little backwards. Mr. Calderon stated that Cook's Towing employs nineteen people, and they spent thousands of dollars trying to do things to reorganize their structure to be a Woman-

Owned Business Entity (WBE). He stated that when he saw the amount of paperwork, questions and changes that were asked, he felt that there was no way a towing service could do that. He felt as if some operator had designed the RFP so that they could be the only ones who could respond positively. He stated that these are things that cannot be done within 28 days. He states that Cook's has done a great job working with IMPD in terms of doing all the things under their contract. He stated that there is no guarantee that they will get any action, and that if this was just an exercise for information, a lot of people relied on it as their only chance to retain a business towing contract.

Councillor Rivera asked if the client requested an extension to the due date of the RFP. Mr. Calderon stated that he does not believe that there was an extension available.

Cindy King, Owner, Indy Towing Service, stated that she did request an extension because it was an overwhelming process, and she was told that there would not be an extension.

Councillor Rivera asked Ms. King if she responded to the RFP. Ms. King stated that her company was not able to submit an RFP within four weeks. Councillor Rivera asked if given more time, if her company would have been large enough to submit the RFP. Ms. King stated that she has found out from her colleagues that no one has put in a bid to handle it all by themselves. Knowing that, yes she feels that she would be able to submit something. She stated that she has interviewed with five of the six companies that submitted a bid, and has joined with two of the companies that she feels will do the same job that she has done with the city for the past 31 years.

Councillor Cardwell asked what the normal time frame for RFP's is. Ms. Tusing stated that by law, there are certain days that it has to be advertised and on the street. She stated that a month is a pretty average turnaround time for a proposal. She stated that if an extension was requested, normally the rule of thumb is if only one person asked for it they do not clear it. If they see a trend of several companies having issues, they may discuss it internally and possibly give an extension. Ms. Tusing stated that the current vendors are a towing service, they are procuring a Towing Manager, so they are asking the committee to look at the policy to change the way they currently do business: to go from a very cumbersome process to a streamline process of management. She stated for the current vendors to have issues with responding to the proposal is understandable, because they are not procuring the same services. She stated that in the bids that they received, they saw a trend where a lot of the current vendors were able to find companies to provide the different services that were being asked.

Councillor Bateman asked for them to explain the process of the Towing Manager. Mr. Powers stated they are not looking to procure one or several individuals who have vehicles capable of providing the service of removing vehicles. They are looking for innovation, technology, management and expertise relative to business practices that would be engaged in the overall practice of providing towing services to the citizens of

Marion County with vendors in various service levels. Mr. Powers stated that they are looking for someone to oversee the overall towing operation for Marion County, to bring them the most efficient process capable from dispatch to disposal.

Councillor Bateman asked if he was a small towing business, how he would engage in that process to keep from being excluded from the process of a towing manager picking and choosing the ones they want. Mr. Powers stated that they have protections built within the program so that when they are scoring, there will be a certain level of participation within the contract for those vendors. He stated that by releasing the RFP, they know that all of the submissions are partnerships.

Ms. Tusing stated that it is the same way they procure to build a road, the guy who can lay the asphalt will offer his services to the vendor that can win the bid. She stated that the small businesses should understand that the RFP is looking for something that they cannot do, but know that they are going to be needed, and to contact the companies that will be in need.

Mr. Powers stated that it is plausible that a vendor could have submitted a response that had absolutely no interest in towing at all, and could have been a logistic services or trucking company. As long as they were willing to bring the technology, dispatch and management of the operations to bear upon it, there is nothing that would have precluded them from bidding either.

Councillor Bateman stated that he feels there was confusion on whether this was a management contract as opposed to a towing contract.

Councillor B. Mahern stated that he feels that a key ingredient to properly managing towing would be to understand it. He stated that there was eighteen months of work prior to releasing the RFP, then within a month's time of releasing the RFP people were to understand that this was a switch from a towing to a management contract, find someone to partner with, and provide feedback to the city. He stated that he does not understand what the urgency was, in which to not engage the current vendors and to allow such a very short period of time to respond to the RFP. Ms. Tusing stated the part of the eighteen month time was spent sorting out how the internal process works. She stated that they wanted to learn exactly what happens within the three different departments. She stated that the service portion of this process is not the main focus; it was how they streamline internal processes. She stated that the four-week process of procurement is the normal turnaround time for them to do RFP's. She stated that if they had received an abundant of extension requests, they would have entertained that.

Councillor Cain asked if the towing companies can still bid to the managers selected. Mr. Powers stated that if they are a competitive vendor, with respect to performance level, they would expect the manager to engage in finding viable vendors in order to meet the requirement of towing vehicles.

Ms. King gave a statement, which is attached as Exhibit A.

Councillor D. Mahern stated that Indy Towing has 22 employees and Cook's Towing has 19. He stated that both of these companies felt like they did not have a chance to put in an RFP because of the size of their businesses. He stated that it makes him nervous to have companies that already have contracts, with this many employees, women and minorities, feel like they are not part of the process.

Councillor D. Mahern stated that there have been some other companies that have also had issues with the towing management contract that were not in attendance. He asked if there are any companies with issues to please get in contact with a committee member.

Councillor Cardwell stated that if anyone had any other information that they feel may make this process better, to take time to send them an email. He stated that they are here to look out for the best interest of the citizens of Marion County. He stated that they want to help economic development, and not put anyone of business.

Councillor Bateman stated that after listening to the discussions, he would like to know why there was not a request for information (RFI) submitted as opposed to an RFP. Mr. Powers stated he would have to go to his procurement side to find out why they did not go to an RFI instead of RFP. Ms. Tusing stated that if an RFP was written, correctly, both things could be accomplished in one procurement process.

Councillor Bateman stated that an RFI would have at least given everyone an opportunity to submit their ideas and information that they thought would be plausible. Ms. Tusing stated that they wanted to receive the best proposal they could, but from a city perspective, it is their job to procure the best revenue and the best payment for the city. She stated that an RFP allows the city to procure a better service than just the specifics that are put on paper. They can weigh technology, management services, references and Minority-owned business entity (MBE)/WBE participation. Request for Proposals are used to allow the city to pull together evaluation teams to look at things that are not so black and white. She stated that a service like towing is very black and white, but towing management is very comprehensive.

Mr. Powers stated that his staff worked in building this proposal, and with his knowledge through working with DPS and DPW, he is pleased to say that each point that Ms. King made has been addressed within the process.

PROPOSAL NO. 390, 2010 - reappoints Mark D. Fisher to the Board of Code Enforcement

Councillor Rivera apologized that Mr. Fisher had to leave before testifying to the committee. He stated that Mr. Fisher has been very active and has not missed a meeting.

Councillor Cardwell moved, seconded by Councillor Cain, to send Proposal No. 390, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 8-0.

With no further business pending, and upon motion duly made, the Metropolitan Development Committee of the City-County Council was adjourned at 6:38 p.m.

Respectfully submitted,

Janice McHenry, Chair
Metropolitan Development Committee

JM/kln

Good Evening Councilors

My name is Cyndi King. I am an owner of Indy Towing Service Inc, a towing vendor for the City of Indianapolis. We are located 3350 Sutherland Avenue, near 30th and Fall Creek Parkway.

I am here tonight to share my concerns about Proposal 298.

Indy Towing is a local, family, women owned business, and has been for the last 31 years. My father purchased the company in 1978 and after a short illness he passed away just two hours before our very first city contract went into effect in 1979. My mother stepped up to run the company and we have had a contract with the City ever since. Our territory is approximately 1/3 of the city. We have 22 employees which includes minorities and women. We own 14 wreckers and our 5 acre impound lot.

Proposal 298 and the new RFP issued by the DCE, although it is meant to encourage the involvement of women, minority and veteran-owned businesses, I believe, has done the opposite. Although not intentional, it will shut out these and other small businesses.

My company is not large enough to service the entire City, therefore I could not make a proposal. The RFP has taken away my ability to compete in a market I have serviced for 31 years. I believe if this RFP goes through and my company does not receive work as a sub-contractor with a reputable, local, Prime Vendor, my doors will close. My 22 employees will be unemployed. My 5 acres will sit vacant in an area that already has very little economic development.

In the past, City towing contracts have been awarded through a bidding process which is public and transparent. All bidders meet at the same time, bids are read in public, and by the end of the meeting you know where your company stands. The RFP process is not public, nor transparent. I am also concerned that Proposal 298 and the RFP have moved too quickly.

The City has reputable vendors with years of experience doing the towing now. Current Vendors are already set up 24/7, have qualified and experienced employees, are located strategically through out the city, and have the acreage needed to store towed vehicles. Using experienced vendors can only minimize the transition if changes are made. No negative impact on the citizens, IMPD or local small businesses.

The DCE says it wants to improve efficiencies, accountability and reduce costs. I and other towing vendors would be happy to meet with the DCE staff to find out what their concerns are and how we can improve our service to meet the city's goals. To my knowledge, the DCE staff has not visited any towing contractors' sites or sought meetings with us.

Over the last 31 years the City has asked vendors on several occasions to make changes to their contracts. The changes were made with little or no issue. Please give us the opportunity to do so now.

At your last meeting, response times and geography were discussed. Our average response time is under 14 minutes. This is far below the 25 minutes allowed. Our percentage of on-time arrivals is 96.6%. This is accomplished because we are located within and close to the Police sectors we service.

Eliminating the franchise towing districts with Proposal 298 may have an adverse effect on towing customers because the sole vendor selected by DCE may not have property located in the areas your current vendors do or the acreage needed to store the hundreds of vehicles towed each week by local towing companies.

The use of technology was also brought up. Current vendors use technology in their operations and can work with the DCE to improve communications and accountability. Our company made the decision years ago to focus on and service the IMPD contract. This is a full time commitment to promptness and quality. We pride ourselves on our response time and the service we provide to the Officers and the Citizens. We think it is a privilege to tow for the City of Indianapolis. All Towing Vendors know that if they fail to perform to the contract requirements, they will be removed.

I understand the City needs to look at saving money. During these economic times we all do. I believe the City can reach its financial goals under the current towing system without re-inventing the wheel.

On the income side, the bidding process allows the City to reduce costs and increase revenue because it can dictate the fees and set the tow prices. I believe the current towing system in place has proven to be very effective and efficient for our customers – the City and the people whose vehicles we tow. I believe all current vendors would be willing to work with the city and DCE, as we have in the past, to transition into the needs of the City.

In Closing –

I attended a dinner recently where Mayor Ballard spoke. He was proud of the efforts made during his administration promoting WBE and local businesses. He believes in transparency.

The public bidding process is competitive and does give the City the best rates. I know the City thinks RFP's are the way to go but one size does not fit all for city services. In addition, if the City is concerned about transparency, using an RFP instead of public bidding is clearly not the way to go. The alternative, not working with the City, will cause at the least, downsizing and for some the closing of their family owned local business.

The RFP asks vendors to re-invent the wheel in short order, but with all of these open issues the wheel is still moving. We do not think DCE has explained how the system is broken. If it needs repair can we give the current local vendors an opportunity to implement the changes needed?

Thank you for your time and your continued commitment to the citizens and business of Indianapolis.

The last seven months have been a roller coaster with the DCE. It has played out as follows:

June 2009

Companies were awarded the latest contracts. One year term **6/30/09-6/30/10**

June 2010 I received notice DCE wanted a six month extension, **12/31/10**, I signed.

July 26, received notification of Proposal, RFP.

August 27, just three weeks later, RFP due.

Sept 6th, interviews to begin but they do not.

October 18th first interviews with Vendors.

November 11, asked to extend another six months, new date to be **6/30/11**

Just yesterday 12/22/10 I received verification that I will hold the City contract till June 30, 2011.

One month to put a proposal together that will turn the Towing contract upside down.

This whole process seems to be moving so fast, why?